

REMARKS

This Amendment is responsive to the Office Action dated June 11, 2008. Applicant has amended claims 4 and 42, and added new claims 83 and 84. Claims 4, 7, 42, 83 and 84 are pending.

Claim Rejection Under 35 U.S.C. § 101

In the Office Action, the Examiner rejected claim 4, as previously presented, under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Examiner stated that a method claim, which claim 4 is, must be tied to another statutory class or transform underlying subject matter to a different state of thing. The Examiner argued that the recitations in claim 4, as previously presented were not tied to another statutory class and did not involve transformation of underlying subject matter. The Examiner further argued that the recitations in claim 4, as previously presented, could be performed by a person.

Applicant does not agree with the Examiner's statement of the law, or the Examiner's arguments regarding Applicant's claims. Nevertheless, in the interest of expediting allowance of this application, Applicant has amended claim 4 to recite that each of the limitations is performed by a device. Applicant submits that the amendments to claim 4 address the Examiner's concerns, and respectfully requests that this rejection be withdrawn.

Claim Rejection Under 35 U.S.C. § 112, Second Paragraph

In the Office Action, the Examiner rejected claims 4 and 7 under 35 U.S.C. § 112, second paragraph as failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. More particularly, the Examiner stated that claim 4 omitted the step of selecting a part of the displayed human body, as performed by a user, which the Examiner argued was "essential."

Applicant respectfully traverses this rejection, to the extent it is considered applicable to the amended claims. Amended claim 4 recites a method that includes a plurality of functions performed by a device. A step of selecting performed by a user is not part of the claimed method, much less an essential step, as would be understood by a person of ordinary skill in the art. Applicant submits that the amended claims particularly point out and distinctly claim the

subject matter which Applicant regards as the invention, as required by section 112, second paragraph, and respectfully requests that this rejection be withdrawn.

Claim Rejections Under 35 U.S.C. §§ 102 and 103

In the Office Action, the Examiner rejected claims 4 and 42 under 35 U.S.C. § 102(b) as being anticipated by University of Medicine and Dentistry of New Jersey (WO 96/19774, hereinafter “UMDNJ”). The Examiner also rejected claim 7 under 35 U.S.C. § 103(a) as being unpatentable over UMDNJ in view of US 6,356,785 to Snyder et al. (Snyder). Applicant respectfully traverses these rejections to the extent such rejections may be considered applicable to the amended claims. The applied references fail to disclose each and every limitation of the claims, and provide no teaching suggesting a rational reason for modification to include such features.

Applicant has amended independent claim 4 to require that the device perform at least one of summoning emergency medical personnel as a function of the selection, delivering an electrotherapy to a patient as a function of the selection, and generating an audible alarm as a function of the selection. Applicant has similarly amended independent claim 42. UMDNJ fails to disclose or suggest at least this requirement of the independent claims.

In rejecting the independent claims, the Examiner argued that the generation of cautions or warnings, as disclosed by UMDNJ, is the same as generating an alarm, as recited by claims 1 and 42 as previously presented. Applicant does not agree with this interpretation, but nevertheless has amended independent claims to distinguish it and expedite allowance of the application. In particular, Applicant has amended the independent claims to require an audible alarm. UMDNJ does not suggest that the cautions or warnings are audible, or otherwise suggest an audible alarm.

Snyder provides no teaching that would have overcome this deficiency of UMDNJ. The Examiner does not argue that Snyder discloses or suggests an audible alarm. The Examiner argued that Snyder teaches defibrillation as a form of resuscitation, and that it would have been obvious to modify the resuscitation disclosed by UMDNJ to include delivering therapy, such as defibrillation. Applicant does not necessarily agree with this conclusion, and, in any event,

whether it would have been obvious that the resuscitation disclosed by UMDNJ could include defibrillation is irrelevant to the requirements of Applicant's independent claims.

The relevant limitation of claim 4, for example, recites that the device performs the step of delivering an electrotherapy as a function of a selection of a part of the displayed human body. UMDNJ does not remotely suggest that its device provides resuscitation, or otherwise delivers therapy. UMDNJ discusses resuscitation in the context of recording information regarding what resuscitation was provided to the patient. (UMDNJ: 3:14-22 and 25:19 – 27:3). Consequently, the combination of UMDNJ and Snyder would, at best, suggest modifying the UMDNJ device to record information regarding delivered therapy, and would not have suggested modifying the UMDNJ device itself to deliver defibrillation, or any other therapy.

For at least these reasons, the Examiner has failed to establish a prima facie case for non-patentability of Applicant's claims 4, 7 and 42 under 35 U.S.C. §§ 102(b) or 103(a). Withdrawal of these rejections is requested.

New Claims

Applicant has added new claims 83 and 84 to the application. No new matter is added by the new claims.

New claim 83 requires that the device perform at least one of summoning emergency medical personnel as a function of the selection, and delivering an electrotherapy to a patient as a function of the selection. New claim 84 recites similar requirements. Although the device may be used by emergency personnel, UMDNJ does not disclose or suggest that its device may summon other emergency personnel in response to a selection made by a user. Furthermore, UMDNJ does not remotely suggest that its device may be used to deliver any therapy. As discussed above, the combination with Snyder would not result in modification of the UMDNJ device to deliver therapy.

CONCLUSION

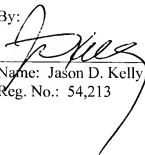
All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

October 10, 2008

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